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10/043,540	01/11/2002	John William Richardson	PU 020013	7304

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EXAMINER

JEAN GILLES, JUDE

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/043,540

Applicant(s)

RICHARDSON, JOHN WILLIAM

Examiner

Jude J Jean-Gilles

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

This office action is responsive to communication filed on 01/11/2002.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sridhar et al (Sridhar), U.S. Patent No. 6,324,582 B1, in view of Ramanathan et al (Ramanathan), U.S. Patent No. 5,913,041.

Regarding **claim 1**, Sridhar discloses the invention substantially as claimed. Schneider teaches an asynchronous transfer mode (ATM) digital document delivery system (*column 38, lines 31-60*), comprising:

a customer premise unit configured to permit a customer to order and receive a data stream (*fig. 7, items 710, 712, 726, and 718; column 11, lines 54-67*);

a buffer coupled to the customer premise unit to store the data stream before transmitting the data stream to a customer (*column 13, lines 52-62*);

a server having digital documents stored thereon for delivery to the customer through a switched ATM network (*fig. 6, items 618, and 626; column 12, lines 6-39*);  
and

means for controlling a data rate of the data stream between the server and the buffer to ensure maintenance of a steady data stream from the customer premise unit to the customer (*column 12, lines 51-67; column 13, lines 1-7*). However Sridhar does not specifically disclose controlling the data rate during a loss of a physical layer.

In the same field of endeavor, Ramanathan discloses physical layer impairments or loss that induce transmission errors during that may be detected as a result of packet losses at the level of the physical layer” [see Ramanathan , *column 7, lines 66-67; column 8, lines 1-21*].

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Ramanathan's teachings of a method to use a positioning method and means for message transmission, with the teachings of Sridhar, for the purpose of *“improving network maintenance implementation as the throughput may be monitored periodically or continuously to provide early detection of faults...”* as stated by Ramanathan in lines 35-37 of column 3. Sridhar also provides motivation to combine by stating that the *“link and physical layer module is responsible for the communicating over the physical connections including those to client computer to improve communications in the network”* in lines 34-38 of column 18. By this rationale **claim 1** is rejected.

Regarding **claim 2**, the combination Sridhar-Ramanathan discloses the document delivery system, as recited in claim 1, wherein the customer premise unit includes the buffer therein, the buffer including a memory storage capacity sufficient to maintain the data stream to a customer for an amount of time [see *Sridhar, column 10, lines 60-67; column 36, lines 54-62; fig. 6, items 661-662*]. The same motivation that is used for the rejection of claim 1 is also valid for claim 2 [see *Sridhar, column 18, lines 34-38; Ramanathan, column 3, lines 35-37*]. By this rationale **claim 2** is rejected.

Regarding **claim 3**, the combination Sridhar-Ramanathan discloses the document delivery system, as recited in claim 2, wherein the amount of time includes time needed to restore the physical layer [see *Ramanathan, column 8, lines 22-65*]. The same motivation that is used for the rejection of claim 1 is also valid for claim 3 [see *Sridhar, column 18, lines 34-38; Ramanathan, column 3, lines 35-37*]. By this rationale **claim 3** is rejected.

Regarding **claim 4**, the combination Sridhar-Ramanathan discloses the document delivery system, as recited in claim 2, wherein the amount of time includes up to 30 seconds [see *Sridhar, column 8, lines 66-67; column 9, lines 1-11*]. Note that the server clock may be used to set the time up to 30 seconds. The same motivation that is used for the rejection of claim 1 is also valid for claim 4 [see *Sridhar, column 18, lines 34-38; Ramanathan, column 3, lines 35-37*]. By this rationale **claim 4** is rejected.

Regarding **claim 5**, the combination Sridhar-Ramanathan discloses the document delivery system, as recited in claim 1, wherein the means for controlling includes a network control system coupled to the server and the customer premise unit,

Art Unit: 2143

the network control system providing control for the data rate of the data stream to the customer premise unit from the server [see *Sridhar, column 12, lines 51-67; column 13, lines 1-7*]. The same motivation that is used for the rejection of claim 1 is also valid for claim 5 [see *Sridhar, column 18, lines 34-38; Ramanathan, column 3, lines 35-37*]. By this rationale **claim 5** is rejected.

Regarding **claim 6**, the combination Sridhar-Ramanathan discloses the document delivery system, as recited in claim 5, further comprising a multiplexer coupled between the customer premise unit and the network control system, the multiplexer including a signaling mechanism to alert at least one component that the physical layer is lost [see *Sridhar, column 18, lines 52-67; column 19, lines 1-15*]. The same motivation that is used for the rejection of claim 1 is also valid for claim 6 [see *Sridhar, column 18, lines 34-38; Ramanathan, column 3, lines 35-37*]. By this rationale **claim 6** is rejected.

Regarding **claim 7**, the combination Sridhar-Ramanathan discloses the document delivery system, as recited in claim 6, further comprising virtual circuits set up between the network control system, the customer premise unit and the multiplexer to enable communication therebetween [see *Ramanathan, column 4, lines 30-41; fig. 1, item 24*]. The same motivation that is used for the rejection of claim 1 is also valid for claim 7 [see *Sridhar, column 18, lines 34-38; Ramanathan, column 3, lines 35-37*]. By this rationale **claim 7** is rejected.

Regarding **claim 8**, the combination Sridhar-Ramanathan discloses the document delivery system, as recited in claim 1, wherein the server is configured to

Art Unit: 2143

deliver the data stream at a rate greater than a normal rate after the physical layer has been restored [see Ramanathan, *column 28, lines 3-65*]. The same motivation that is used for the rejection of claim 1 is also valid for claim 8 [see Ramanathan, *column 28, lines 3-65*]. By this rationale **claim 8** is rejected.

Regarding **claim 9**, the combination Sridhar-Ramanathan discloses the document delivery system, as recited in claim 8, wherein the server is configured to deliver the data stream at the normal rate after the buffer has been filled [see Ramanathan, *column 28, lines 3-65*]. The same motivation that is used for the rejection of claim 1 is also valid for claim 9 [see Sridhar, *column 18, lines 34-38*; Ramanathan, *column 3, lines 35-37*]. By this rationale **claim 9** is rejected.

Regarding **claim 10**, the combination Sridhar-Ramanathan discloses the document delivery system, as recited in claim 1, wherein the customer premise unit is configured to deliver the data stream at a rate less than a normal rate when the physical layer is lost [see Ramanathan, *column 28, lines 3-65*]. The same motivation that is used for the rejection of claim 1 is also valid for claim 10 [see Sridhar, *column 18, lines 34-38*; Ramanathan, *column 3, lines 35-37*]. By this rationale **claim 10** is rejected.

### ***Similar Claims***

3. **Claim 11** lists all the same elements of **claim 1**, but in method form rather than system form. Therefore, the supporting rationale of the rejection to **claim 1** applies equally as well to **claim 11**.

**Claim 12** lists all the same elements of **claim 2**, but in method form rather than

Art Unit: 2143

system form. Therefore, the supporting rationale of the rejection to **claim 2** applies equally as well to **claim 12**.

**Claim 13** lists all the same elements of **claim 3**, but in method form rather than system form. Therefore, the supporting rationale of the rejection to **claim 3** applies equally as well to **claim 13**.

**Claim 14** lists all the same elements of **claim 5**, but in method form rather than system form. Therefore, the supporting rationale of the rejection to **claim 5** applies equally as well to **claim 14**.

**Claim 15** lists all the same elements of **claim 6**, but in method form rather than system form. Therefore, the supporting rationale of the rejection to **claim 6** applies equally as well to **claim 15**.

**Claim 16** lists all the same elements of **claim 7**, but in method form rather than system form. Therefore, the supporting rationale of the rejection to **claim 7** applies equally as well to **claim 16**.

**Claim 17** lists all the same elements of **claim 8**, but in method form rather than system form. Therefore, the supporting rationale of the rejection to **claim 8** applies equally as well to **claim 17**.

**Claim 18** lists all the same elements of **claim 9**, but in method form rather than system form. Therefore, the supporting rationale of the rejection to **claim 9** applies equally as well to **claim 18**.

**Claim 19** lists all the same elements of **claim 10**, but in method form rather than system form. Therefore, the supporting rationale of the rejection to **claim 10** applies



Art Unit: 2143

equally as well to **claim 19**.

**Conclusion**

4. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914.

The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

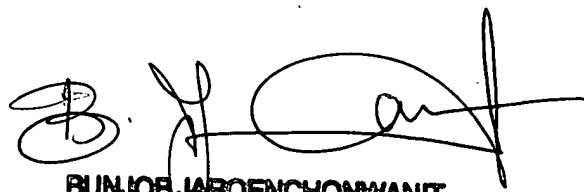
Jude Jean-Gilles

Patent Examiner

Art Unit 2143

JJG

March 1, 2005

  
BUN JOE JAROENCHONWANIT  
PRIMARY EXAMINER

